

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 MATTHEW G. SILVA,

9 Plaintiff,

10 v.

11 C.J. MERRITT, et al.,

12 Defendants.

Case No. C07-5482BHS

ORDER DENYING PLAINTIFF'S
REQUEST FOR EXTENSION OF
TIME AND ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation of the
14 Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 65), and Plaintiff's
15 request for additional time to file objections (Dkt. 76).

16 **I. BACKGROUND**

17 The original deadline for filing objections to the Report and Recommendation was
18 around September 19, 2008. *See* Dkt. 65 at 13 (September 9, 2008, Report and
19 Recommendation providing Plaintiff 10 days from service of the report to file objections).
20 The Court previously granted two of Plaintiff's requests for extensions of time to file
21 objections. Dkts. 71 and 75. Plaintiff did not file objections to the Report and
22 Recommendation by November 14, 2008, as permitted by the last order granting an
23 extension. Dkt. 75.

24 Plaintiff again moves for an extension of time because he maintains that he needs
25 additional time to recover legal materials which he alleges were illegally seized by the
26 Department of Corrections ("DOC"). Dkt. 76. He also requests that the Court enter an order
27

1 requiring the DOC and Washington State Attorney General's office to appear and show
2 cause why his legal materials have not been returned. *Id.* at 4.

3 The Court denies Plaintiff's motion. Plaintiff filed a motion in state court to recover
4 his legal materials, and the Walla Walla Superior Court dismissed Plaintiff's motion with
5 prejudice. *See* Dkt. 76, 7-8 (Exhibit 1). It also appears that the DOC policy places limits on
6 the number of boxes of legal materials that may be kept in a cell. *Id.*, 18-19 (Exhibit 4).
7 Apparently, Plaintiff chose to keep only two files and the rest of his materials will be
8 shipped to him. *Id.*


9 The Court has twice extended the deadline for filing objections and Plaintiff has not
10 provided a valid reason for another extension. Plaintiff has been provided ample time to file
11 his objections. The Court also denies Plaintiff's request to issue an order to show cause.
12 Plaintiff's allegations that he has been deprived of his legal materials have been resolved by
13 state court and appear to have been resolved by the DOC as well.

14 II. ORDER

15 The Court having considered the Report and Recommendation, Plaintiff's motion,
16 and the remaining record, does hereby find and order:

- 17 (1) The Court **DENIES** Plaintiff's motion for an extension of time (Dkt. 76);
18 (2) The Court adopts the Report and Recommendation (Dkt. 65);
19 (3) Defendants' Motion for Summary Judgment (Dkt. 41) is **GRANTED**, and
20 Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

21 DATED this 8th day of December, 2008.

22
23
24 
25 BENJAMIN H. SETTLE
26 United States District Judge
27
28